

FILED

FEB 16 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERARDO VILLAREAL-VARGAS,

Defendant - Appellant.

No. 04-30449

D.C. No. CR-04-00010-RFC

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, District Judge, Presiding

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Gerardo Villareal-Vargas appeals from his guilty-plea conviction and 240-month sentence for possession of methamphetamine within 1,000 feet of a protected area with intent to distribute and distribution of methamphetamine

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

within 1,000 feet of a protected area, in violation of 21 U.S.C. §§ 841(a)(1) and 860. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Villareal-Vargas has filed a brief stating that she finds no grounds for relief, along with a motion to withdraw as counsel of record. Villareal-Vargas has filed a pro se supplemental brief and the government has filed an answering brief.¹

Our examination of the briefs and our independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 83 (1988), disclose no grounds for relief on direct appeal.

Accordingly, counsel's motion to withdraw is **GRANTED** and the district court's judgment is **AFFIRMED**.

¹ Appellee's January 31, 2006 motion to submit this appeal on the briefs is granted.